

FLORIDA STATUTES ON THE TELECOMMUNICATIONS ACCESS SYSTEM

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427.701 Title.--This part may be cited as the "Telecommunications Access System Act of 1991."

History.--s. 1, ch. 91-111.

427.702 Findings, purpose, and legislative intent.--

(1) The Legislature finds and declares that:

(a) Telecommunications services provide a rapid and essential communications link among the general public and with essential offices and organizations such as police, fire, and medical facilities.

(b) All persons should have basic telecommunications services available to them at reasonable and affordable costs.

(c) A significant portion of Florida's hearing impaired and speech impaired populations has profound disabilities, including dual sensory impairments, which render normal telephone equipment useless without additional specialized telecommunications devices, many of which cost several hundred dollars.

(d) The telecommunications system is intended to provide access to a basic communications network between all persons, and that many persons who have a hearing impairment or speech impairment currently have no access to the basic telecommunications system.

(e) Persons who do not have a hearing impairment or speech impairment are generally excluded from access to the basic telecommunications system to communicate with persons who have a hearing impairment or speech impairment without the use of specialized telecommunications devices.

(f) There exists a need for a telecommunications relay system whereby the cost for access to basic telecommunications services for persons who have a hearing impairment or speech impairment is no greater than the amount paid by other telecommunications customers.

(g) The Federal Government, in order to carry out the purposes established by Title II of the Communications Act of 1934, as amended, by the enactment of the Americans with Disabilities Act, endeavored to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing impaired and speech impaired persons in the United States.

(h) Title IV of the Americans with Disabilities Act mandates that the telecommunications companies providing telephone services within the state shall provide telecommunications relay services on or before July 25, 1993, to persons who are hearing impaired or speech impaired within their certificated territories in a manner that meets or exceeds the requirements of regulations to be prescribed by the Federal Communications Commission.

(2) It is the declared purpose of this part to establish a system whereby the citizens of Florida who are hearing impaired, speech impaired, or dual sensory impaired have access to basic telecommunications services at a cost no greater than that paid by other telecommunications services customers, and whereby the cost of specialized telecommunications equipment necessary to ensure that citizens who are hearing impaired, speech impaired, or dual sensory impaired have access to basic telecommunications services and the provision of telecommunications relay service is borne by all the telecommunications customers of the state.

(3) It is the intent of the Legislature:

(a) That a telecommunications access system be established to provide equitable basic access to the telecommunications network for persons who are hearing impaired, speech impaired, or dual sensory impaired.

(b) That the telecommunications access system includes a telecommunications relay service system that meets or exceeds the certification requirements of the Federal Communications Commission.

(c) That the telecommunications access system includes the distribution of telecommunications devices for the deaf that are compatible with the telecommunications relay service system and has the capability of incorporating new technologies as they develop.

(d) That the telecommunications access system includes the distribution of specialized telecommunications devices necessary for hearing impaired, speech impaired, or dual sensory impaired persons to access basic telecommunications services.

(e) That the telecommunications access system ensures that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communications services.

(f) That the telecommunications access system be as cost efficient as possible without diminishing the effectiveness or the quality of the system.

(g) That the telecommunications access system uses state-of-the-art technology for specialized telecommunications devices and the telecommunications relay service and encourages the incorporation of new developments in technology, to the extent that it has demonstrated benefits consistent with the intent of this act and is in the best interest of the citizens of this state.

(h) That the value of the involvement of persons who have hearing or speech impairments, and organizations representing or serving those persons, be recognized and such persons and organizations be involved throughout the development, establishment, and implementation of the telecommunications access system through participation on the advisory committee as provided in s. 427.706.

(i) That the total cost of providing telecommunications relay services and distributing specialized telecommunications devices be spread equitably among and collected from customers of all local exchange telecommunications companies.

History.--s. 1, ch. 91-111.

427.703 Definitions.--As used in this part:

(1) "Administrator" means a corporation not for profit incorporated pursuant to the provisions of chapter 617 and designated by the Florida Public Service Commission to administer the telecommunications relay service system and the distribution of specialized telecommunications devices pursuant to the provisions of this act and rules and regulations established by the commission.

(2) "Commission" means the Florida Public Service Commission.

(3) "Deaf" means having a permanent hearing impairment and being unable to discriminate speech sounds in verbal communication, with or without the assistance of amplification devices.

(4) "Dual sensory impaired" means having both a permanent hearing impairment and a permanent visual impairment and includes deaf/blindness.

(5) "Hard of hearing" means having a permanent hearing impairment which is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

(6) "Hearing impaired" or "having a hearing impairment" means deaf or hard of hearing and, for purposes of this part, includes being dual sensory impaired.

(7) "Local exchange telecommunications company" means a telecommunications company certificated by the commission to provide telecommunications services within a specific geographic area.

(8) "Operating fund" means the fund established, invested, managed, and maintained by the administrator for the exclusive purpose of implementing and administering the provisions of this act pursuant to commission rules and regulations.

(9) "Ring signaling device" means a mechanism, such as a flashing light, which visually indicates that a communication is being received through a telephone line. This term also means a mechanism such as an adjustable volume ringer and buzzer which audibly and loudly indicates an incoming telephone communication.

(10) "Speech impaired" or "having a speech impairment" means having a permanent loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

(11) "Specialized telecommunications device" means a TDD, a volume control handset, a ring signaling device, or any other customer premises telecommunications equipment specifically designed or used to provide basic access to telecommunications services for a hearing impaired, speech impaired, or dual sensory impaired person.

(12) "Surcharge" means an additional charge which is to be paid by local exchange telecommunications company subscribers pursuant to the cost recovery mechanism established under s. 427.704(4) in order to implement the system described herein.

(13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision of the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company, or a specialized mobile radio service operator, a private radio carrier, a radio common carrier, a cellular radio telecommunications carrier, or a cable television company providing cable service as defined in 47 U.S.C. s. 522.

(14) "Telecommunications device for the deaf" or "TDD" means a mechanism which is connected to a standard telephone line, operated by means of a keyboard, and used to transmit or receive signals through telephone lines.

(15) "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(16) "Telecommunications relay service" means any telecommunications transmission service that allows a person who is hearing impaired or speech impaired to communicate by wire or radio in a manner that is functionally equivalent to the ability of a person who is not hearing impaired or speech impaired. Such term includes any service that enables two-way

communication between a person who uses a telecommunications device or other nonvoice terminal device and a person who does not use such a device.

(17) "Volume control handset" means a telephone which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving unit or by the telephone transmitting unit.

History.--s. 1, ch. 91-111.

427.704 Powers and duties of the commission.--

(1) The commission shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or speech impaired, or others who communicate with them. The telecommunications access system shall provide for the purchase and distribution of specialized telecommunications devices and the establishment of statewide single provider telecommunications relay service system which operates continuously. To provide telecommunications relay services and distribute specialized telecommunication devices to persons who are hearing impaired or speech impaired, at a reasonable cost the commission shall:

(a) Investigate, conduct public hearings, and solicit the advice and counsel of the advisory committee established pursuant to s. 427.706 to determine the most cost-effective method for providing telecommunications relay service and distributing specialized telecommunications devices.

(b) Ensure that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as duration of the call, time of day, and distance from the point of origination to the point of termination.

(c) Ensure that the telecommunications access system protects the privacy of persons to whom services are provided and that all operators maintain the confidentiality of all relay service messages.

(d) Ensure that the telecommunications relay service system complies with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act.

(2) The commission shall designate as the administrator of the telecommunications access system a corporation not for profit organized for such purposes and incorporated pursuant to chapter 617. For the purposes of this part, the commission may order telecommunications companies to form such a corporation not for profit.

(3)(a) The commission shall select the provider of the telecommunications relay service pursuant to procedures established by the commission. In selecting the service provider, the commission shall take into consideration the cost of providing the relay service and the interests

of the hearing impaired and speech impaired community in having access to a high-quality and technologically advanced telecommunications system. The commission shall award the contract to the bidder whose proposal is the most advantageous to the state, taking into consideration the following:

1. The appropriateness and accessibility of the proposed telecommunications relay service for the citizens of the state, including persons who are hearing impaired or speech impaired.
2. The overall quality of the proposed telecommunications relay service.
3. The charges for the proposed telecommunications relay service system.
4. The ability and qualifications of the bidder to provide the proposed telecommunications relay service as outlined in the request for proposals.
5. Any proposed service enhancements and technological enhancements which improve service without significantly increasing cost.
6. Any proposed inclusion of provision of assistance to deaf persons with special needs to access the basic telecommunications system.
7. The ability to meet the proposed commencement date for the telecommunications relay service.
8. All other factors listed in the request for proposals.

(b) The commission shall consider the advice and counsel of the advisory committee in the development of the request for proposals. The request for proposals shall include, but not be limited to:

1. A description of the scope and general requirements of the telecommunications relay service, including the required compliance with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act, the required service provisions and service limitations, system design, service provider qualifications, and service description, type of calls to be provided, and charges to the users.
2. A description of the telecommunications relay service system standards.
3. A description of information to be provided by the bidder, including service provider qualifications, cost information, including cost per call and startup costs, a description of the system design, including network access and facilities to be provided, and relay operator standards.
4. A description of service provider reporting requirements.

(c) The commission shall establish a request for a proposals review committee, which shall include commission staff and designated members of the advisory committee, to review the proposals received by the commission and recommend a telecommunications relay service provider to the commission for final selection. By agreeing to serve on the review committee, each member of the review committee shall agree that he or she currently does not have and will not have any interest or employment, either directly or indirectly, with potential bidders that would conflict in any manner or degree with his or her performance on the committee.

(d) To the extent a bidder desires any portion of its proposal to be considered proprietary, confidential business information, the bidder shall make such request concurrent with filing its proposal and justify its request as provided in s. 364.183.

(4)(a) The commission shall establish a mechanism to recover the costs of implementing and maintaining the services required pursuant to this part which shall be applied to each basic telecommunications access line. In establishing the recovery mechanism, the commission shall:

1. Require all local exchange telecommunications companies to impose a monthly surcharge on all local exchange telecommunications company subscribers on an individual access line basis, except that such surcharge shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

2. Require all local exchange telecommunications companies to include the surcharge as a part of the local service charge that appears on the customer's bill, except that the local exchange telecommunications company shall specify the surcharge on the initial bill to the subscriber and itemize it at least once annually.

3. Allow the local exchange telecommunications company to deduct and retain 1 percent of the total surcharge amount collected each month to recover the billing, collecting, remitting, and administrative costs attributed to the surcharge.

(b) The commission shall determine the amount of the surcharge based upon the amount of funding necessary to accomplish the purposes of this act and provide the services on an ongoing basis; however, in no case shall the amount exceed 25 cents per line per month.

(c) All moneys received by the local exchange telecommunications company, less the amount retained as authorized by subparagraph (4)(a)3., shall be remitted to the administrator for deposit in appropriate financial institutions regulated under state or federal law and used exclusively to fund the telecommunications access system provided for herein.

(d) The surcharge collected by the local exchange telecommunications companies is not subject to any sales, use, franchise, income, municipal utility, gross receipts, or any other tax, fee, or assessment, nor shall it be considered revenue of the local exchange telecommunications companies for any purpose.

(e) From the date of implementing the surcharge, the commission shall review the amount of the surcharge at least annually and shall order changes in the amount of the surcharge as necessary to

assure available funds for the provision of the telecommunications access system established herein. Where the review of the surcharge determines that excess funds are available, the commission may order the suspension of the surcharge for a period which the commission deems appropriate.

(5) The commission shall require each local exchange telecommunications company to begin assessing and collecting the surcharge in the amount of 5 cents per access line per month on bills rendered on or after July 1, 1991, for remission to the administrator for deposit in the operational fund. Each local exchange telecommunications company shall remit moneys collected to the administrator. On August 15, 1991, each local exchange telecommunications company shall begin remitting the moneys collected to the administrator on a monthly basis and in a manner as prescribed by the commission. The administrator shall use such moneys to cover costs incurred during the development of the telecommunications relay services and to establish and administer the specialized telecommunications devices system.

(6) The commission shall establish a schedule for completion of specific stages of the telecommunications relay service development and implementation except that the statewide telecommunications relay service shall commence on or before June 1, 1992.

(7) The commission shall require the administrator to submit financial statements for the distribution of specialized telecommunications devices and the telecommunications relay service to the commission quarterly, in the manner prescribed by the commission.

(8) The commission shall adopt rules and may take any other action necessary to implement the provisions of this act.

(9) The commission shall provide to the President of the Senate and to the Speaker of the House of Representatives an annual report on the operation of the telecommunications access system. The first report shall be provided no later than January 1, 1992, and successive reports shall be provided by January 1 of each year thereafter. Reports shall be prepared in consultation with the administrator and the advisory committee. The reports shall, at a minimum, briefly outline the status of developments of the telecommunications access system, the number of persons served, the call volume, revenues and expenditures, the allocation of the revenues and expenditures between provision of specialized telecommunications devices to individuals and operation of statewide relay service, other major policy or operational issues, and proposals for improvements or changes to the telecommunications access system.

History.--s. 1, ch. 91-111; s. 11, ch. 2000-334.

427.705 Administration of the telecommunications access system.--

(1) Consistent with the provisions of this act and rules and regulations established by the commission, the administrator shall:

(a) Purchase, store, distribute, and maintain specialized telecommunications devices, either directly or through contract with third parties, or a combination thereof.

(b) Administer advertising and outreach services as required by the commission, either directly or through contract with third parties, or a combination thereof.

(c) Administer training services for recipients of specialized telecommunications devices and for telecommunications relay service users as directed by the commission through contract with third parties.

(d) Establish and maintain an operational fund with appropriate financial institutions regulated under state or federal law, and receive moneys from the local exchange telecommunications companies and deposit such moneys in the operational fund.

(e) Develop, test, and implement an accounting system and internal controls and procedures to receive, safeguard, and disperse moneys in the operational fund as directed by the commission.

(f) Develop and implement procedures for an independent audit and for compliance with commission reporting requirements, as directed by the commission.

(g) Administer and control the award of money to all parties incurring costs in implementing and maintaining the telecommunications access system, equipment, and technical support services in accordance with the provisions of this act.

(2) The administrator shall be audited annually by an independent auditing firm to assure proper management of any revenues it receives and disburses. The administrator's books and records shall be open to the commission and to the Auditor General for review upon request. The commission shall have the authority to establish fiscal and operational requirements for the administrator to follow in order to ensure that the administrative costs of the system are reasonable.

(3) The administrator may apply to the commission for an adjustment in the amount of the monthly surcharge that a local exchange telecommunications company must impose on its customers. Prior to applying to the commission for such an adjustment, the commission may require the administrator to employ an independent accounting firm to perform an audit of the accounts of the administrator and the service providers relevant to the surcharge and file a report with the commission.

(4) In contracting for the provision of distribution of specialized telecommunications devices, outreach services, and training of recipients, the administrator shall consider contracting with organizations that provide services to persons who are hearing impaired or speech impaired.

(5) The administrator shall provide for the distribution of specialized telecommunications devices to persons qualified to receive such equipment in accordance with the provisions of this act. The administrator shall establish procedures for the distribution of specialized telecommunications devices and shall solicit the advice and counsel and consider the recommendations of the advisory committee in establishing such procedures. The procedures shall:

(a) Provide for certification of persons as hearing impaired, speech impaired, or dual sensory impaired. Such certification process shall include a statement attesting to such impairment by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, or deaf service center director; by a state-certified teacher of the hearing impaired; by a state-certified teacher of the visually impaired; or by an appropriate state or federal agency. The licensed physician, audiologist, speech-language pathologist, hearing aid specialist, state-certified teacher of the hearing impaired, or state-certified teacher of the visually impaired providing statements which attest to such impairments shall work within their individual scopes of practice according to their education and training. The deaf service center directors and appropriate state and federal agencies shall attest to such impairments as provided for in the procedures developed by the administrator.

(b) Establish characteristics and performance standards for specialized telecommunications devices determined to be necessary, and for the selection of equipment to be purchased for distribution to qualified recipients. The characteristics and standards shall be modified as advances in equipment technology render such standards inapplicable.

(c) Provide for the administrator to apply for, contract for, receive, and expend for the purposes of this part any appropriation, grant, gift, or donation from the Federal Government or any other public or private source.

(d) Require the administrator to purchase the equipment required by this part on a competitively bid basis, so that the best value per unit may be obtained on the equipment selected for purchase, unless the equipment is available from only one source, or the total amount of the subject transaction does not exceed \$5,000.

(6) All names, addresses, and telephone numbers provided to the Florida Public Service Commission or administrator by applicants for specialized telecommunications devices are confidential and exempt from the provisions of s. 119.07(1). The information shall be released to contractors only to the extent necessary for assignment and shipment of equipment, for provision of training in the use of equipment, and for inventory reconciliation purposes. Neither the administrator or any contractor shall release this information nor use it for any other purpose.

(7) The administrator shall assume responsibility for distribution of specialized telecommunications devices.

(8) The administrator shall submit financial statements to the commission quarterly, in the manner prescribed by the commission.

History.--s. 1, ch. 91-111; s. 1, ch. 92-2; s. 278, ch. 96-406; s. 52, ch. 99-5; s. 12, ch. 2000-334.

427.706 Advisory committee.--

(1) The commission shall appoint an advisory committee to assist the commission with the implementation of the provisions of this part. The committee shall be composed of no more than 10 persons and shall include, to the extent practicable, the following:

- (a) Two deaf persons recommended by the Florida Association of the Deaf.
 - (b) One hearing impaired person recommended by Self-Help for the Hard of Hearing.
 - (c) One deaf and blind person recommended by the Coalition for Persons with Dual Sensory Disabilities.
 - (d) One speech impaired person recommended by the Florida Language Speech and Hearing Association.
 - (e) Two representatives of telecommunications companies, one representing a local exchange telecommunications company and one representing an interexchange telecommunications company, recommended by the Florida Telephone Association.
 - (f) One person with experience in providing relay services recommended by the Deaf Service Center Association.
 - (g) One person recommended by the Advocacy Center for Persons with Disabilities, Inc.
 - (h) One person recommended by the Florida League of Seniors.
- (2) The advisory committee shall provide the expertise, experience, and perspective of persons who are hearing impaired or speech impaired to the commission and to the administrator during all phases of the development and operation of the telecommunications access system. The advisory committee shall advise the commission and the administrator on any matter relating to the quality and cost-effectiveness of the telecommunications relay service and the specialized telecommunications devices distribution system. The advisory committee may submit material for inclusion in the annual report to the President of the Senate and the Speaker of the House of Representatives.
- (3) Members of the committee shall not be compensated for their services but shall be entitled to per diem and travel expenses as provided in s. 112.061. The commission shall use funds from the Florida Public Service Regulatory Trust Fund to cover the costs incurred by members of the advisory committee.

History.--s. 1, ch. 91-111; s. 45, ch. 94-324; s. 18, ch. 95-327.

427.707 Exemption from liability.--Neither the commission, the administrator, the provider of the telecommunications relay service, nor any agent, employee, representative, or officer of the foregoing shall be liable for any claims, actions, damages, or causes of action arising out of or resulting from the establishment, participation in, or operation of the telecommunications relay service, except where there is malicious purpose or wanton and willful disregard of human rights, safety, or property in the establishment, participation in, or operation of the telecommunications relay service.

History.--s. 1, ch. 91-111.

427.708 Certain public safety and health care providers required to purchase and operate TDD's.--

(1) The central communications office of each county sheriff's department shall purchase and continually operate at least one TDD.

(2)(a) The central communications office of each police department and each firefighting agency in a municipality with a population of 25,000 to 250,000 shall purchase and continually operate at least one TDD.

(b) The central communications office of each police department and each firefighting agency in a municipality with a population exceeding 250,000 persons shall purchase and continually operate at least two TDD's.

(3) Each hospital as defined in s. 395.002 shall purchase and continually operate at least one TDD.

(4) Each emergency telephone number "911" system, as provided in s. 365.171, and each agency receiving automatically routed calls through such a system shall purchase and continually operate at least one TDD.

(5) Each public safety office, health care provider, and emergency telephone number "911" system required to obtain a TDD pursuant to this section shall continuously operate and staff such equipment on a 24-hour basis.

(6) Each office or organization required to purchase TDD's pursuant to this section shall buy such equipment which meets the same specifications as those selected by the commission.

(7) Each office or organization required to operate TDD's pursuant to this section shall utilize equipment in accordance with standards established by the commission.

History.--s. 1, ch. 91-111; s. 80, ch. 92-289; s. 46, ch. 94-324; s. 19, ch. 95-327.